IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2954 of 1999

Between:

M/s. Ahmed Basha Stone Crusher

Gundurupalli village, Rapur Mandal,

Nellore district, rep.by its Managing Partner

S.K. Basha, S/o. Kalesha, aged about 55 years,

Residing at D.No.24/2180/8, Ramnagar, Darga Hills,

Nellore.

..... PETITIONER

AND

1. A.P. Transmission Corporation,

rep.by its Chairman-cum-Managing Director

Vidyuth Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer/Electricity/APSEB

Nellore Zone, Vidyuth Bhavan, Nellore.

3. The Superintending Engineer(APSEB)

Assessments, Cuddapah.

4. Assistant Divisional Engineer(Operations)

APSEB, Gudur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of certiorari or any other appropriate writ or direction calling for the records relating to the proceedings in Lr.No.CEE.NZ.NLR.Comml.A.133/97/D.No.78/98 dated 5-1-99 of the 2nd respondent confirming the order of 2nd respondent passed in Proc.No.SE/A/CDP/FAO/D.GDR/PF.4/96-97. D.No.180/97, dated 26-6-97 and quash the same and pass such other or further orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner :MR.O.MANOHER REDDY

Counsel for the Respondents : SMT.M.VINOBHA DEVI(Standing counsel for A.P. Transco)

The Court made the following :

ORAL ORDER:

Heard both sides.

The petitioner herein, who is running a stone crusher unit, files this writ petition, inter alia, assailing the impugned orders dated 5.1.1999 passed by the 2nd respondent herein, in appeal confirming the orders of the 3rd respondent dated 26.6.1997, making the assessment in regard to certain irregularities found during the inspection.

The case of the petitioner is that inspection was made on 27.11.1996 and thereafter, after following due procedure, final assessment order was made to the tune of Rs.4,10,865/-. In appeal also, the same was confirmed. It is his further case that having regard to various difficulties, to which the petitioner was already put to due to stoppage of the crusher and the unit being in a bad state of affairs for the past 2 years, such an amount could not have been assessed, which on face of it, is on higher side.

Learned Standing Counsel appearing for the respondents repelled the contentions on the ground that the entire assessment is perfectly valid.

On considering the submissions and also on perusal of the material available on record, it is seen that in the said inspection, the allegations as made against the petitioners are to the following effect.

> "All the meter cover seals are found flattened i.e. zigzagness of the seal bits are found flattened and the impression on the seal bits is not clear. Sealing wire of the seal bits is removed and re-inserted again by tampering the seal bits."

On the face of it, the allegations constitute very serious offences. No consumer is entitled to meddle with the meter in the manner in which it is now being found. Having regard to the same, there is absolutely no explanation forthcoming on behalf of the petitioner and in view of the findings of fact arrived at holding that the petitioner is responsible for all such irregularities, this court cannot go into the same in exercise of powers under Art.226 of the Constitution of India. However, by taking into consideration the fact that the petitioner-unit was in a bad state of affairs and had several difficulties including stoppage of crusher etc, it would suffice in the interests of justice to reduce the total amount as assessed from Rs.4,11,065/- to Rs.3,08,299/-.

The writ petition is partly allowed. No order as to costs.

30.12.2004

CVM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Thirtieth day of Two thousand and four.

REGISTRAR

To

To

1. The Chairman-cum-Managing Director ,

A.P. Transmission Corporation,

Vidyuth Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer/Electricity/APSEB

Nellore Zone, Vidyuth Bhavan, Nellore.

3. The Superintending Engineer(APSEB)

Assessments, Cuddapah.

4. Assistant Divisional Engineer(Operations)

APSEB, Gudur, Nellore District.

5. Two CCs to Standing Counsel for APSEB, High Court Premises,

High Court of A.P., Hyderabad(OUT)

6. Two CD copies.